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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2008 JAN -9 AM 10: 27

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY ______ DEPUTY

UNITED STATES OF AMERICA,	Magistrate Docket No. **'08 MJ 0063**
Plaintiff,	
v.	**COMPLAINT FOR VIOLATION OF:**
Juan MENDOZA-Justo,	Title 8, U.S.C., Section 1326 Deported Alien Found in the United States
Defendant	

The undersigned complainant, being duly sworn, states:

On or about **January 7, 2008** within the Southern District of California, defendant, **Juan MENDOZA-Justo,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

James E. Bailey (signature)

SIGNATURE OF COMPLAINANT
James E. Bailey
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **9th DAY OF JANUARY 2008**

Louisa Porter (signature)

Louisa S. Porter
UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:
Juan MENDOZA-Justo

PROBABLE CAUSE STATEMENT

On January 7, 2008 Senior Patrol Agents N. Mondragon and S. Bell were performing traffic check duties at the intersection of Highway 395 and Old Castle Road near Bonsall, California. Highway 395 is a route smugglers will use to avoid the Border Patrol Checkpoint at Interstate 15 and smuggling interdiction units around the area.

At 9:45 A.M., the agents, while stationary in a marked Border Patrol sedan, observed a champagne colored 1999 Chevrolet Tahoe, bearing California license plates, pass their location. The vehicle was an older four door sport utility vehicle with tinted rear windows and is the type favored by alien smugglers because of the large number of people it can hide from view. The agents observed the driver and front seat passenger glance at their law enforcement vehicle and then quickly look away. The agents' experience is that the motoring public tends to give the Border Patrol vehicles more than a passing glance as they pass by them. The actions of the occupants in the Tahoe are common with aliens present in the country illegally attempting to avoid being noticed be the Border Patrol. The agents pulled out and followed the Tahoe for further observation.

When the driver of the Tahoe realized he was being followed he immediately turned left on to Camino Del Rey. This tactic has been used by alien smugglers in the recent past in attempts to throw off Border Patrol surveillance. When the driver made the turned he came face to face with a "Road Closed" sign. The driver made an immediate U-turn and attempted to exit the area. Agents Bell and Mondragon were able to see another passenger in the Tahoe and a lumpy object in the rear that they thought could have been bodies covered by blankets. Due to the suspicious actions of the occupants, the agents believed that the vehicle could be involved in immigration violations. The agents performed a vehicle stop on the Tahoe.

Agent Mondragon approached the driver, defendant Juan MENDOZA-Justo, and identified himself as a Border Patrol Agent. Agent Mondragon queried the defendant as to his immigration status. The defendant stated that he is a citizen of the United States. Agent Bell approached the left side of the vehicle, identified himself as a Border Patrol Agent and questioned the passengers as to their immigration status. Both subjects admitted to being citizens of Mexico illegally present in the United States. At 7:50 A.M. the two passengers were taken into custody for being present in the United States without admission. The defendant was arrested for suspicion of alien smuggling. All were transported to the Border Patrol Checkpoint at I-15 for further investigation.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **August 23, 2005** through **San Diego, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his rights as per the Miranda Warning. The defendant understood his rights and agreed to be interviewed without representation. The defendant admitted that he was born in Acapulco, Guerrero, Mexico and that he us illegally in the United States. He last entered through the mountains at night near Calexico, California at the end of September 2005. The defendant was traveling to Santa Ana to be with his wife and daughter. The defendant admits to having been deported three previous times.